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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1484-PWS-E **TCEQ ID:** RN101195212 **CASE NO.:** 34548
RESPONDENT NAME: Ezekiel L. Holloway dba Hill River Country Estates

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Hill River Country Estates, at the end of Skyline Drive, approximately 1.5 miles west of San Antonio Street, near Center Point, Kerr County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Ezekiel L. Holloway, Owner, Hill River Country Estates, P.O. Box 516, Center Point, Texas 78010 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

DOCKET NO.: 2007-1484-PWS-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 30, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 20, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a well production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, with 57 connections, the water system should provide a minimum well production capacity of 34 gpm; however, the system currently provides a well production capacity of 15 gpm, which is approximately 58% deficient [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to maintain an up-to-date chemical and microbiological monitoring plan. Specifically, the chemical section of the monitoring plan was not being maintained and kept up-to-date [30 TEX. ADMIN. CODE § 290.121(a)].</p>	<p>Total Assessed: \$856</p> <p>Total Deferred: \$171 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$115 (remaining \$570 due in five monthly payments of \$114 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of the Agreed Order, create and begin maintaining an up-to-date chemical and microbiological monitoring plan;</p> <p>b. Within 45 days after the effective date of the Agreed Order, submit written certification and include a copy of the chemical and microbiological monitoring plan to demonstrate compliance with Ordering Provision a.;</p> <p>c. Within 90 days after the effective date of the Agreed Order, provide a well production capacity of 0.6 gpm per connection; and</p> <p>d. Within 105 days after the effective date of the Agreed Order, submit written certification to demonstrate compliance with Ordering Provision c.</p>

Additional ID(s): PWS 1330151



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	30-Jul-2007	Screening	16-Aug-2007	EPA Due	
	PCW	29-Aug-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ezekiel L. Holloway dba Hill River Country Estates
Reg. Ent. Ref. No.	RN101195212
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34548	No. of Violations	2
Docket No.	2007-1484-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$800**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **7% Enhancement** **Subtotals 2, 3, & 7** **\$56**

Notes The compliance history enhancement is due to one prior Notice of Violation ("NOV") with violations that are the same as or similar to the violations in the current enforcement action and for one NOV with dissimilar violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** **\$0**
 *Capped at the Total EB \$ Amount

Total EB Amounts	\$330
Approx. Cost of Compliance	\$5,200

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$856**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes**Final Penalty Amount** **\$856**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$856**

DEFERRAL **20% Reduction** **Adjustment** **-\$171**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$685**

Screening Date 16-Aug-2007

Docket No. 2007-1484-PWS-E

PCW

Respondent Ezekiel L. Holloway dba Hill River Country Estates

Policy Revision 2 (September 2002)

Case ID No. 34548

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101195212

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The compliance history enhancement is due to one prior Notice of Violation ("NOV") with violations that are the same as or similar to the violations in the current enforcement action and for one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

Screening Date 16-Aug-2007 Respondent Ezekiel L. Holloway dba Hill River Country Estates Case ID No. 34548 Reg. Ent. Reference No. RN101195212 Media [Statute] Public Water Supply Enf. Coordinator Rebecca Clausewitz Violation Number <input type="text" value="1"/> Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code § 341.0315(c) Violation Description Failed to provide a well production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, with 57 connections, the water system should provide a minimum well production capacity of 34 gpm; however the system currently provides a well production capacity of 15 gpm, which is approximately 58% deficient.	Docket No. 2007-1484-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>
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Base Penalty	\$1,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>

Matrix Notes	Without adequate well production capacity, customers of the water system could experience water shortages or outages and the system's ability to provide a safe and adequate water supply could be impaired.
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Adjustment	\$750
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	\$250
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Violation Events

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="78"/>	Number of violation days
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<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text" value="x"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Violation Base Penalty	\$750
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Three monthly events are recommended, calculated from the date of the investigation, May 30, 2007, to the date the case was screened and accepted for enforcement, August 16, 2007.	
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Economic Benefit (EB) for this violation

Estimated EB Amount <input type="text" value="\$322"/>	Statutory Limit Test
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Violation Final Penalty Total <input type="text" value="\$803"/>	
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This violation Final Assessed Penalty (adjusted for limits)	\$803
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Economic Benefit Worksheet

Respondent Ezekiel L. Holloway dba Hill River Country Estates
Case ID No. 34548
Reg. Ent. Reference No. RN101195212
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	30-May-2007	30-Apr-2008	0.9	\$15	\$307	\$322
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to increase the well production capacity to 0.6 gpm per connection, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$5,000

TOTAL

\$322

Screening Date 16-Aug-2007

Docket No. 2007-1484-PWS-E

PCW

Respondent Ezekiel L. Holloway dba Hill River Country Estates

Policy Revision 2 (September 2002)

Case ID No. 34548

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101195212

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.121(a)

Violation Description

Failed to maintain an up-to-date chemical and microbiological monitoring plan. Specifically, the chemical section of the monitoring plan was not being maintained and kept up-to-date.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

50% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

78 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$54

This violation Final Assessed Penalty (adjusted for limits) \$54

Economic Benefit Worksheet

Respondent Ezekiel L. Holloway dba Hill River Country Estates
Case ID No. 34548
Reg. Ent. Reference No. RN101195212
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	30-May-2007	28-Feb-2008	0.8	\$8	n/a	\$8
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to create and begin maintaining the chemical section of the water system's monitoring plan, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$200

TOTAL

\$8

Compliance History

Customer/Respondent/Owner-Operator:	CN602438707	HOLLOWAY, EZEKIEL L	Classification:	Rating:
Regulated Entity:	RN101195212	HILL RIVER COUNTRY ESTATES	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1330151
	WATER LICENSING	LICENSE		1330151
Location:	AT THE END OF SKYLINE DR APPROXIMATELY 1.5 MILES WEST OF SAN ANTONIO STREET NEAR CENTER POINT, KERR COUNTY			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	August 16, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 16, 2002 to August 16, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rebecca Clausewitz		Phone:	(210) 403-4012

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/21/2004	(274280)
2	07/10/2006	(484150)
3	07/17/2007	(567346)
4	07/26/2007	(567250)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/22/2004 (274280)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)[G]

Description: Failure to sample and record the free chlorine residual of the distribution system at alternating microbiological sample sites once every seven days.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide a sanitary control easement covering all property within 150 ft. of the well location, secured from all landowners and recorded at the county courthouse to ensure that hazards will not develop in the well area.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide a concrete sealing block extending at least three feet in all directions from the well casing, with a minimum thickness of six inches and sloped to drain away from the well.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to seal up the well head by gasket or sealing compound to prevent the possibility of contaminating the well water.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to provide a flow measuring device on the discharge of the well prior to storage to measure production yields and provide for the accumulation of water production data.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)		
Description:	Failure to protect the well in an intruder resistant fence with lockable gates or enclosed in a locked and ventilated well house to exclude possible contamination or damage to the facilities by trespassers.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)[G]		
Description:	Failure to maintain records of monthly operating reports. Public water systems this size are required to document the amount of water produced from the well and the amount of chemicals added to the water system on a weekly basis. These records are required to be maintained for a minimum of two years.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to protect all ground storage tanks and pressure maintenance tanks in a locked building or intruder resistant fence with lockable gates. The fence must be six feet high with three strands of barbed wire on top, or an eight foot high fence.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)		
Description:	Failure to provide an overflow pipe for the west ground storage tank that is covered with a gravity hinged and weighted flap. The flap cover shall fit tightly with no gap over 1/16th of an inch.		
Date: 07/12/2006 (484150)			
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to provide a sanitary control easement covering all property within 150 ft. of the well location, secured from all landowners and recorded at the county courthouse to ensure that hazards will not develop in the well area.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)		
Description:	Failure to meet the Commission's minimum capacity requirements, specifically failure to provide a minimum of 0.6 gpm of well production capacity per connection. Currently with 59 connections, you are required to have a minimum well production capacity of 35.4 gpm.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(b)		
Description:	Failure to submit monthly microbiological samples from representative sample sites from within the distribution system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(d)(2)		
Description:	Failure to document the location of the weekly free chlorine tests of the distribution system. Free chlorine tests run at the water plant do not count as part of the distribution system.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to have developed and maintained an up to date chemical and microbiological monitoring plan.		

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)
Description: Failure to meet the Commission's minimum capacity requirements, specifically failure to provide two or more service pumps with a total capacity of 2.0 gpm per connection. With 59 connections you need a minimum of 118 gpm, we are crediting your system with having 80 gpm(20 gpm per HP).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
Description: Failure to meet the Commission's minimum capacity requirements, specifically failure to provide a minimum of 20 gallons of pressure tank capacity per connection. With 59 connections you are required to have a minimum of 1180 gallons of pressure tank capacity plus additional capacity for anticipated growth.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING**

**EZEKIEL L. HOLLOWAY DBA HILL
RIVER COUNTRY ESTATES
RN101195212**

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1484-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ezekiel L. Holloway dba Hill River Country Estates ("Mr. Holloway") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Holloway appear before the Commission and together stipulate that:

1. Mr. Holloway owns and operates a public water supply at the end of Skyline Drive, approximately 1.5 miles west of San Antonio Street near Center Point, Kerr County, Texas (the "Facility") that has approximately 57 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and Mr. Holloway agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Holloway is subject to the Commission's jurisdiction.
3. Mr. Holloway received notice of the violations alleged in Section II ("Allegations") on or about July 25, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Holloway of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Eight Hundred Fifty-Six Dollars (\$856) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Holloway has paid One Hundred Fifteen Dollars (\$115) of the administrative penalty and One Hundred Seventy-One Dollars (\$171) is deferred contingent upon Mr. Holloway's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Holloway fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Holloway to pay all or part of the deferred penalty.

The remaining amount of Five Hundred Seventy Dollars (\$570) of the administrative penalty shall be payable in five (5) monthly payments of One Hundred Fourteen Dollars (\$114) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Holloway fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Holloway to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Holloway to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Mr. Holloway have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Holloway has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Holloway is alleged to have:

1. Failed to provide a well production capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on May 30, 2007. Specifically, with 57 connections, the water system should provide a minimum well production capacity of 34.2 gpm; however, the system currently provides a well production capacity of 15 gpm, which is approximately 58% deficient.
2. Failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a), as documented during an investigation conducted on May 30, 2007. Specifically, the chemical section of the monitoring plan was not being maintained and kept up-to-date.

III. DENIALS

Mr. Holloway generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Holloway pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Holloway's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ezekiel L. Holloway dba Hill River Country Estates, Docket No. 2007-1484-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Mr. Holloway shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, create and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.d. below, and include a copy of the chemical and microbiological monitoring plan to demonstrate compliance with Ordering Provision 2.a.
 - c. Within 90 days after the effective date of this Agreed Order, provide a well production capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Holloway. Mr. Holloway is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Holloway shall be made in writing to the Executive Director. Extensions are not effective until Mr. Holloway receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Holloway in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Holloway, or three days after the date on which the Commission mails notice of the Order to Mr. Holloway, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

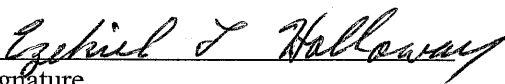
11/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

11-30-07
Date

Ezekiel L. Holloway
Name (Printed or typed)
Authorized Representative of
Ezekiel L. Holloway dba Hill River Country Estates

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

